



Seal.” (Doc. #27.) Defendants proffer “compelling reasons” which defendants contend justify the documents being filed under seal. Those include:

- officials have a duty to protect confidential inmate information to prevent harm from occurring inside the prisons. (Doc. #23, pp. 2-3.)
- confidential documents should not be disclosed to the public. (*Id*, pp. 3-7.)
- The Department of Corrections Administrative Regulations establish that penological interests are reasonably related to a legitimate purpose. (*Id*, pp. 8-11.) In that regard, the defendants demonstrate a “rational connection between restricting the intraprisison flow of information concerning inmates’ medical records and promoting the institutional safety and security of prison.” (*Id*, at p. 9.) The defendants contend the inmate may request review of his records and the exhibits filed under seal (*id*, at p. 10).<sup>1</sup>

The defendants also outline security concerns regarding the impact of allowing one inmate to possess medical records and the “ripple effect” prison wide which would likely occur. (*Id*, at pp. 10-11). The last factor defendants cite is the lack of reasonable alternatives to allowing inmate access to medical records versus keeping medical information confidential. (*Id*, at pp. 10-11.)

This court is not entirely convinced that medical records must remain sealed when filed with dispositive motions. Nevertheless, the court recognizes that courts have found that the need to protect medical privacy qualifies as a “compelling reason.” *See, e.g., San Ramon Regional Med. Ctr., Inc. v. Principal Life Ins. Co.*, 2011 WL 89931, at \*n.1 (N.D. Cal. Jan. 10, 2011); *Abbey v. Hawaii Employers Mut. Ins. Co.*, 2010 WL 4715793, at \*1-2 (D. HI. Nov. 15, 2010); *G. v. Hawaii*, 2010 WL 267483, at \*1-2 (D. HI. June 13, 2010); *Wilkins v. Ahern*, 2010 WL 3755654 (N.D. Cal. Sept. 24, 2010); *Lombardi v. TriWest Healthcare Alliance Corp.*, 2009 WL 1212170 at \* 1 (D. Ariz. May 4, 2009).

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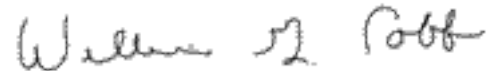
<sup>1</sup> The explanation the prisoner may view his records upon submission of a “kite” has on one or more occasions been troubling to the court. The court has certain concerns that the prison provides a sufficient “alternative means” to plaintiff.” (Doc. #27, p. 10.) For example, in *McCabe v. Gibbons*, 3:09-cv-00244-LRH-WGC, the prisoner contended he was only allowed to view his medical records for half an hour, while standing - shackled - having to ask the prison staff to turn the pages. (*Id*, Transcript of Hearing, Doc. #71.)

1 In *Abbey*, the Court found that “[t]he need to protect medical privacy qualifies as a  
2 compelling reason” to allow such records to be filed under seal. *Abbey, supra*, at p. 1. In  
3 *G. v. Hawaii*, the Court stated the *Kamakana* requirements of compelling reasons must be  
4 articulated “to support secrecy.” The court found that retaining medical records confidential  
5 was justified, citing case authority that “medical records ‘have long been recognized as  
6 confidential in nature.’” *G. v. Hawaii, supra*, at p. 2; citations omitted.

7 Therefore, in the instant matter, the court finds the defendants have carried their  
8 “compelling reasons” burden under *Kamakana* and, therefore, the medical and dental  
9 records (Exhibits C, G, H, I, J, K and L)<sup>2</sup> shall be filed under seal.<sup>3</sup>

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11 **IT IS SO ORDERED.**

12 DATED: December 9, 2011.

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15 WILLIAM G. COBB  
16 UNITED STATES MAGISTRATE JUDGE  
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23 <sup>2</sup> Defendants’ motion focuses mainly on records which by their title suggest they are medical  
24 and/or dental in nature. However, two exhibits are not as easily susceptible of that classification: Exhibit  
25 C: “Transfer Exam and Report”; and Exhibit L, “Consent for Extraction.” The court reviewed those  
26 documents *in camera* and determined they would fall under the purview of medical or dental records.  
27 Exhibit C was a medical examination report completed on the inmate’s transfer and Exhibit L was a  
28 consent for a dental procedure.

<sup>3</sup> Counsel for defendants, however, should be aware that this is not a “blanket order” which will  
apply to all prisoner §1983 litigation where medical records are sought to be used as an exhibit. The  
court is of the opinion that under certain limited circumstances, greater prisoner access to medical  
records may be justified.